



# State of Wisconsin • DEPARTMENT OF REVENUE

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**Jim Doyle**  
Governor

**Roger M. Ervin**  
Secretary of Revenue

## Assembly Small Business Committee Hearing, April 10, 2007


### **AB 138 – Income and Franchise Tax Credit for Property Tax Paid on Restaurant Kitchen Machinery and Equipment (Representative Van Roy)**

#### *Description of Current Law and Proposed Change*

The bill creates a nonrefundable income and franchise tax credit for property tax paid on machinery and equipment, including refrigerators and other storage equipment, used primarily in the operation of a restaurant's kitchen to prepare or serve food or beverages. Unused credits may be carried over and offset against tax for up to 15 years.

Assembly Substitute Amendment 1 changes the bill from an income and franchise tax credit to a personal property tax exemption.

#### *Fairness/Tax Equity*

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- Under the proposed language, kitchen machinery and equipment would be eligible or not eligible for a credit based on where it is located. Kitchen machinery and equipment used in a tavern would not be eligible, while the same kitchen machinery and equipment would be eligible in a restaurant. (Likewise, under the substitute amendment the kitchen machinery in a restaurant would be exempt from taxation while the very same equipment installed in a tavern would be taxable.
  - Businesses in other industries will not receive a similar credit for property taxes paid for personal property used in the performance of their business tasks.

#### *Impact on Economic Development*

- The bill would provide tax relief to an industry that provides many jobs in Wisconsin.

#### *Administrative Impact/Fiscal Effect*

- As originally drafted, the bill would result in an estimated state revenue loss of \$2.9 million per year. If adopted, Assembly Substitute Amendment 1 would not reduce state revenues. Instead, it would result in a revenue shift equal to an estimated \$2.9 million dollars a year from businesses claiming the exemption to other property tax payers.

The following technical comments address concerns of the Department related to the bill as originally drafted. These concerns do not apply to the substitute amendment.

- Because the amount of property tax related to restaurant equipment is not listed separately on the property tax bill, it would be difficult for taxpayers to calculate the amount of the credit

and for the Department to verify the correct amount of credit is being claimed. The bill should provide that the claimant must attach a copy of the paid property tax bill as well as the completed statement of personal property that the taxpayer submits to their local assessor that specifically lists the value of the qualifying machinery.

- In addition, any state aid or credit that reduces the tax on the property tax bill should reduce the amount of property tax that qualifies for the credit.
- The order of computation places the credit after the alternative minimum tax. If it is the intent that the credit offset alternative minimum tax, the bill should be amended to include the credit in the list of credits not considered when determining alternative minimum tax.
- Finally, the order of claiming the credits should be the same for corporations and insurance companies. In addition, the credit should be claimed before the refundable credits.

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